



Appeal Decision

Site visit made on 9 May 2024 by N Unwin BSc (hons) MSc MRTPI

Decision by F Wilkinson BSc (hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 JUNE 2024

Appeal Ref: APP/G5180/W/23/3333401

5 Parish Lane, Penge, Bromley, London SE20 7LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Bianca Andrew against the decision of the Council of the London Borough of Bromley.
 - The application reference is DC/23/03138/FULL1.
 - The development proposed is described as 'conversion of the ground floor shop to one bedroom flat following by single storey rear extension and bin and cycle stores'.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. Since the determination of the application, a revised National Planning Policy Framework (the Framework) has been published (December 2023). It is this version of the Framework to which I have had regard when assessing the proposal.

Main Issues

4. The main issues are the effect of the proposal on the i) vitality and viability of the Neighbourhood Centre and Local Parade; ii) living conditions of future occupiers with regards to internal living space and the occupiers of 6 Parish Lane with regards to outlook, and levels of daylight and sunlight; and iii) character and appearance of the area.

Reasons for the Recommendation

Vitality and Viability of the Neighbourhood Centre and Local Parade

5. The appeal site comprises a two-storey building with residential accommodation on the first floor and a commercial premises on the ground floor which, at the time of my site visit was vacant. The surrounding area is primarily residential with a small number of commercial premises servicing the local populace. The limited number of commercial units within the area, including that of the appeal site, further enhances their individual contribution to the provision of services to local residents especially those who are less

mobile and unable to reach the larger retail centres, and thus to the vitality and viability of the area.

6. The site is defined within the London Borough of Bromley Local Plan (2019) (LBBLP) as being within a designated Neighbourhood Centre and Local Parade, considered a key shopping area within the Borough. Policy 96 of the LBBLP specifically requires the retention of Class A1 shops within such designations to ensure a range of uses, contributing to its vitality and viability. Policy 99 of the LBBLP permits the change of use of ground floor premises in shopping areas to residential uses where, amongst other things, the proposed use would not undermine the retail vitality and viability of the centre, and that no other commercial or community use is interested in occupying the vacant unit.
7. The Use Classes Order has been changed since the adoption of the LBBLP to subsume some A1 use classes, including hairdressers, into a new Use Class E, meaning that the site could change to another use, including a cafe, without the requirement of express planning permission. Whilst Policy 96 of the LBBLP specifically refers to former Use Class A1, other uses within Class E, such as hairdressers, would still be likely to contribute to the vitality and viability of the designated Neighbourhood Centre and Local Parade. As such, this policy remains relevant to the proposal and is not in itself out of date because of its reference to Use Class A1.
8. The proposed change of use of the ground floor to residential would result in the loss of one of the few commercial units in the area and therefore the provision of services for the day to day needs of local residents including those unable to access the larger retail centres, harming the vitality and viability of the area. The appellant has submitted several social media posts and a photo of a sign attached to the front of the property relating to the opening and closure of businesses at the appeal site over recent years. Nevertheless, no evidence has been provided to sufficiently demonstrate that no other commercial or community uses are interested in occupying the vacant unit, such as its marketing history with an estate agent since the premises was last vacant. Consequently, on the evidence before me I am unable to conclude that no other commercial or community uses are interested in occupying the unit, as specifically required by criterion (c) of Policy 99 of the LBBLP.
9. I note the appellant's contention that other nearby properties have been converted from commercial to residential. However, there is no evidence before me to indicate what considerations may have been relevant to the decisions to permit such conversions. In any event, I have determined this appeal on its planning merits based on the evidence before me.
10. Accordingly, the proposal would conflict with Policies 96 and 99 of the LBBLP, the most relevant requirements of which are summarised above.

Living Conditions

11. The appeal property and no. 6 benefit from two-storey rear projections set at a nominal distance from the shared boundary, which is delimited by the single storey rear extension of the appeal building and a significant wooden fence and vegetation. A door is located within the rear elevation of no. 6, in the narrow space between its two-storey projection, which contains a number of ground floor windows facing the appeal site, and the shared boundary. Given the presence of the existing single storey extension of the appeal property and high

boundary treatment, the outlook, and levels of daylight and sunlight received by the aforementioned ground floor openings of no. 6 is severely restricted.

12. The proposed single storey rear extension would replace that of the existing, projecting modestly both beyond the current rear elevation and above the existing boundary treatment with no. 6, limiting the additional built form along the shared boundary. The use of a flat roof would further minimise the built form of the scheme, and as such its effect on the ground floor openings of no. 6, preventing any overbearing impact or significant loss of levels of daylight and sunlight.
13. The proposed one-bedroom flat would have a gross internal floor area (GIFA) of approximately 43 square metres (sqm). Policy D6 of the London Plan (2021) (LP) requires new dwellings to provide a minimum GIFA of 39sqm for 1-bedroom dwellings that are to be occupied by one person and 50sqm for two persons. Whilst the proposal could theoretically be occupied by more than a single person, due to its limited floor area I find this unlikely. Furthermore, no evidence is before me to suggest that the dwelling would be utilised by more than a single person and thus would comply with the minimum GIFA requirement of Policy D6 of the LP.
14. For the above reasons, the proposed development would be acceptable in terms of its effect on the living conditions of the occupiers of 6 Parish Lane with regards to outlook, and levels of daylight and sunlight, and that of future occupiers with regards to internal living space. Accordingly, it would comply with Policies 4, 37, and 99 of the LBBLP, and Policies D4 and D6 of the LP, which when read together and amongst other things, require new development to respect the living conditions of neighbouring and future occupiers.

Character and Appearance

15. The appeal property adjoins the public highway. The appeal building, like many of the surrounding dwellings, has a rear garden area within which a bin store is located. The rear yards can only be accessed via the building which they serve, resulting in the refuse bins being brought through the properties to the front and placed within the public footway prior to being emptied. During my site visit I observed a number of these bins within the public realm, cluttering the street scene.
16. The appeal property was last in use as a café with refuse required to be brought to the front of the building to be disposed of. The proposal identifies a bin store within the rear yard with these brought to the front of the property for collection. Given the proposal is for a one-bedroom dwelling it would likely result in a reduction in refuse produced compared to the previous café use and as such a reduction in visual clutter to the front of the property. Furthermore, the proposal would reflect the existing refuse arrangements of surrounding dwellings and therefore an additional single refuse bin would not meaningfully exacerbate the existing visual clutter within the street scene.
17. Therefore, the proposed development would be acceptable in terms of its effect on the character and appearance of the area. As such, it would comply with Policy 37 of the LBBLP, and Policy T7 of the LP, which when read together and amongst other things, require new development to incorporate recycling and waste storage facilities into the design layout and positively contribute to the existing street scene.

Other Matters

18. Whilst the property is currently vacant and in need of some renovation, such works could be carried out without requiring its change of use to residential.

Planning Balance, Conclusion, and Recommendation

19. The Council accepts that it cannot demonstrate a five-year supply of deliverable housing sites. Therefore, paragraph 11(d) of the Framework is engaged. There is no evidence that the proposed development would harm any areas or assets of particular importance. Paragraph 11(d)(ii) confirms that in such circumstances, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
20. The Framework seeks to boost the housing supply and highlights the important contribution small and medium sized sites can make, whilst supporting development which makes efficient use of land. The proposal for a single dwelling, within a reasonable walking distance of a range of services and facilities, would make a minor contribution to addressing the existing housing shortfall and as such I afford limited weight to this benefit.
21. In contrast, the proposed development would harm the economic vitality and viability of the Neighbourhood Centre and Local Parade. The Framework places significant weight on the need to support economic growth and productivity and requires proposals for homes on non-allocated retail and employment land to not undermine the vitality and viability of town centres. I have concluded that the proposed development would conflict with Policies 96 and 99 of the LBBLP which require the change of use of ground floor premises to residential uses to not undermine the retail vitality and viability of Neighbourhood Centres and Local Parades, and that no other commercial or community uses are interested in occupying the unit. These matters combined carry significant weight against the scheme.
22. Consequently, the harm I have identified significantly and demonstrably outweighs the benefits when assessed against the policies in the Framework taken as a whole. It therefore follows that the proposal does not benefit from the presumption in favour of sustainable development.
23. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal should be dismissed.

N Unwin

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

F Wilkinson

INSPECTOR